

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TEXARKANA DIVISION**

ELBERT MULDROW,

Plaintiff,

v.

TURN KEY HEALTHCARE ET AL.,

Defendants.

§  
§  
§  
§  
§  
§  
§  
§  
§  
§

CIVIL ACTION NO. 5:21-CV-00098-RWS-JBB

**ORDER**

Plaintiff Elbert Muldrow, a former inmate of the Bowie County Correctional Center proceeding *pro se*, filed the above-captioned case alleging violations of his constitutional rights. The case was referred to the United States Magistrate Judge in accordance with 28 U.S.C. § 636. Plaintiff was ordered to pay the statutory filing fee of \$402.00 or to seek leave to proceed *in forma pauperis* in accordance with 28 U.S.C. § 1915(b). Docket No. 3. To date, Plaintiff has not complied with this order nor responded in any way, nor has he contacted the Court since August of 2021.

On February 9, 2023, the Magistrate Judge issued a Report recommending that the lawsuit be dismissed without prejudice for failure to prosecute or to obey an order of the Court. Docket No. 5. The Magistrate Judge also recommended that the statute of limitations be suspended for a period of 60 days following the date of entry of final judgment. *Id.* at 2. A copy of this Report was sent to Plaintiff at his last known address (what looks to be a private residence) return receipt requested. Docket No. 1 at 3; *see also* Docket No. 6. The copy of this Report but was returned with the notation “return to sender - unclaimed - unable to forward.” Docket No. 6. To date, Plaintiff has not advised the Court of his mailing address or current whereabouts, even though the complaint

form, which he signed, contained a declaration acknowledging his understanding that if he is released or transferred, it is his responsibility to keep the court informed of his current mailing address and failure to do so may result in the dismissal of the lawsuit. Docket No. 1 at 5.

Because Plaintiff did not file timely objections, he is barred from *de novo* review by the District Judge of the Magistrate Judge's proposed findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the District Court. *See Duarte v. City of Lewisville, Texas*, 858 F.3d 348, 352 (5th Cir. 2017); *Arriaga v. Laxminarayan*, Case No. 4:21-CV-00203-RAS, 2021 WL 3287683, at \*1 (E.D. Tex. July 31, 2021).

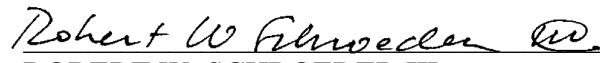
The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law"). Accordingly, it is

**ORDERED** that the Report of the Magistrate Judge (Docket No. 5) is **ADOPTED** as the opinion of the District Court. It is further

**ORDERED** that the above-captioned case is **DISMISSED WITHOUT PREJUDICE** for failure to prosecute or to obey an order of the Court. A final judgment will be entered in this case in accordance with this Order. It is further

**ORDERED** that the statute of limitations is **SUSPENDED** for a period of 60 days following the date of entry of final judgment.

**So ORDERED and SIGNED this 4th day of April, 2023.**

  
ROBERT W. SCHROEDER III  
UNITED STATES DISTRICT JUDGE